

Guideline

Valuations for dealings under the *Land Act 1994*

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Approval

Position	Name	Effective Date
Director, Land and Native Title Operations Policy	Anita Haenfler	31/03/2021

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1 Purpose

This guideline provides direction to ensure a consistent approach is taken to the provision and application of valuation advice that supports land dealings in accordance with the *Land Act 1994* (Land Act).

2 Rationale

All non-freehold land dealt with under the Land Act is owned by the state. The department administering the Land Act (representing the state) has a responsibility under the government's land disposal policies to realise fair market value on the disposal/sale or grant to an interest in state land (unless the specific approval of the Treasurer is obtained).

Prior to the allocation of land under the Land Act there will be an evaluation of land to determine its most appropriate use and tenure. Upon determination of the most appropriate tenure and where required, consideration of the priority criteria, a decision will be made about the most appropriate method for allocation of the land.

In most instances, where the land is allocated under a lease, licence or permit to occupy, the holder for the lease, licence or permit to occupy is required to pay the department an annual rent based on the most recently made valuations for rental purposes.

A registered valuer will provide the required valuation and in the absence of specific legislation citing a relevant date for the valuation, this policy provides direction on the relevant date for valuations to ensure consistent and accountable administration of land dealings.

3 Guideline

This guideline applies to all applications, including those made by a state government department or agency, local government or a government owned corporation.

Definitions:

- The term 'purchase price' includes the value of the land and/or improvements and development works on the land that are the property of or have been made by the state.
- The meaning of 'unimproved value' is defined in section 13 of the Land Regulation 2020
- The 'value of commercial timber' is defined in sections 14 and 15 of the Land Regulation 2020.
- The 'value of quarry material' is defined under section 16 of the Land Regulation 2020.

3.1 Relevant dates of valuation

Unless the Land Act specifies a relevant date at which the valuation is to be made, the relevant date of the valuation for determining the purchase price or annual rent or consideration for an easement, is the date of the valuation report. The relevant date of the valuation must not be more than three months old as at the approval date for the relevant action.

If the date of the valuation report is more than three months old (with the exception of rental valuations for leases, licences and permits), a review of the valuation must be obtained to ensure that the valuation is current and reflects any movement in market values before a decision is made.

Disposal of reservations by sale (section 25 of the Land Act)

The purchase price for a reservation in a deed of grant or freeholding lease is the unimproved value of the land.

Section 25 of the Land Act states that the unimproved value is the value of the land:

- a) on the date the application to buy the land was received from the registered owner or lessee; or
- b) on the day the offer was made if an offer to sell the land was made before the registered owner or lessee applied to buy the land.

The Land Act and Land Regulation 2020 make no provision for the purchase price to include the value of any commercial timber located within the reservation area. Accordingly the valuation must not have reference to the value of commercial timber.

Reclaimed land (section 127 of the Land Act)

The relevant date for calculating the purchase price for reclaimed land has regard to:

- a) the purchase price stated in the permission to reclaim the land or in the lease; or
- b) if no purchase price is stated-the amount of the unimproved value of the land, on the day the permission to reclaim the land was given.

It is important to note that under section 127(1)(a) of the Land Act the reclamation works must have been carried out by the entity that is to be granted the deed.

Conversion (section 170 of the Land Act)

Unless the purchase price or formula for calculating the purchase price has already been stated in the lease to be converted, the purchase price for the conversion is the total of the unimproved value of the land and the market value of any commercial timber that is the property of the state on the land.

The unimproved value is determined as at the date the valid application was received by the department. The market value of the commercial timber is calculated at –

- a) the day the conversion application was received if the value is not appealed; or
- b) if the value is appealed-the day the appeal is decided.

3.2 Permanent road closures

Permanent road closure for inclusion into:

- an adjoining freehold lot
- an adjoining freeholding lease
- an adjoining perpetual lessee held by a government leasing entity as defined in section 26 (3) of the Land Regulation (e.g. Local, State or Commonwealth Government, a government owned corporation, etc.), or
- operational trust land.

The purchase price is the valuation of the land based on 'added value' or the 'before and after' methodology. The valuation is to include the value of any improvements and development work on the road area that are the property of the state.

No allowance is given to reflect the removal and/or adjustment of public infrastructure belonging to a public utility provider (including the road pavement) and/or any unauthorised improvements/development work undertaken by the applicant that improves or degrades the road area. In addition no allowance is given to the cost of survey of the adjoining land to include the road area.

Where the road area is to be included in adjoining freehold land or a freeholding lease the purchase price must also include the value of any commercial timber on the road area. If the date of the valuation report on the commercial timber is older than 3 months, before deciding on the action a review of the valuation is to be sought and obtained before approval of the relevant action.

The value of quarry material on the road area also needs to be paid when including the closed road area in adjoining:

- freehold where there is no reservation of quarry material to the state in the freehold title
- freeholding lease where the lessee owns the quarry material in the lease.

Permanent road closure for inclusion into:

- an adjoining perpetual lessee not held by a government leasing entity as defined in section 26 (3) of the Land Regulation
- an adjoining term lease, or
- trust land for a community purpose.

No purchase price for the land is payable. Where the closed road is included into an adjoining term or perpetual lease the annual rent may be adjusted on a pro-rata basis following a reassessment of the valuation under section 83 of the *Land Valuation Act 2010*.

There is no requirement to assess the value of commercial timber as it remains the property of the state under a lease or reserve.

The value of quarry material also does not need to be paid.

In instances where the closed road is to be included into an adjoining term or perpetual lease and there are improvements on the road area that are the property of the state, the lessee will need to pay the state for the improvements. A valuation of these improvements is required and the relevant date for the valuation is the date of the valuation report. If the date of the valuation report on the improvements is older than three months, before deciding on the action a review of the valuation is to be sought and obtained before approval of the relevant action.

3.3 Unallocated state land

Unallocated state land for inclusion into:

- an adjoining freehold lot
- an adjoining freeholding lease
- an adjoining perpetual lessee held by a government leasing entity as defined in section 26 (3) of the Land Regulation, or
- operational trust land.

The purchase price is the valuation of the land based on 'added value' or the 'before and after' methodology.

The valuation is to include the value of any improvements and development work on the unallocated state land (USL) that are the property of the state. The valuation is not to give any unauthorised improvements/development work undertaken by the applicant that improves or degrades the land.

Where the USL is to be included in adjoining freehold land or a freeholding lease the purchase price must also include the value of any commercial timber on the USL. If the date of the valuation report on the commercial timber is older than three months, before deciding on the action a review of the valuation is to be sought and obtained before approval of the relevant action.

The value of quarry material on the USL also needs to be paid when including the USL in adjoining:

- freehold where there is no reservation of quarry material to the state in the freehold title
- freeholding lease where the lessee owns the quarry material in the lease.

Unallocated state land for inclusion into:

- an adjoining perpetual lessee not held by a government leasing entity as defined in section 26 (3) of the Land Regulation
- an adjoining term lease, or
- trust land for a community purpose.

No purchase price for the land is payable. Where the USL is included into an adjoining term or perpetual lease the annual rent may be adjusted on a pro-rata basis following a reassessment of the valuation under section 83 of the *Land Valuation Act 2010*.

There is no requirement to assess the value of commercial timber as this remains the property of the state under a lease or reserve.

The value of quarry material also does not need to be paid.

In instances where the USL is to be included into an adjoining term or perpetual lease and there are improvements on the USL that are the property of the state, the lessee will need to pay the state for the improvements. A valuation of these improvements is required and the relevant date of the valuation report. If the date of the valuation report on the improvements is older than three months. Before deciding on the action a review of the valuation is to be sought and obtained before approval of the relevant action.

Sale of unallocated state land (including an area of permanently closed road) as a stand-alone lot, without competition.

The purchase price is the valuation of the land based on the highest and best use principle.

The relevant date for the valuation is the date the valuation is provided to the department. The valuation is to include the value of any improvements and development work on the land that are the property of the state. The valuation is not to give any consideration to any unauthorised improvements/development work undertaken by the applicant that improves or degrades the land.

The purchase price must also include the value of any commercial timber on the land. If the date of the valuation report on the commercial timber is older than three months, before deciding on the action a review of the valuation is to be sought and obtained before approval of the relevant action.

The value of quarry material also does not need to be paid as a reservation of the quarry material to the state will be included in the deed.

3.4 New leases, licences and permits to occupy

Unless there is a set rent, the rent for a lease, licence or permit is the amount calculated by multiplying the most recently made valuation for rental purposes (i.e. the valuation provided to the department on the most recently issued local government valuation, as per the *Land Valuation Act 2010*) by the rate prescribed in the Land Regulation for the category of the lease, licence or permit.

The relevant date for the valuation is the date of the valuation report. The valuer will quote the valuation as at the current revaluation.

For leases, if there are any improvements on the land to be leased that are the property of the state, the valuation should also include a value of the improvements. In some cases, the Land Act also requires the former owner of improvements on a lease, licence or trust land to be paid the value of the improvements.

There is no requirement to assess the value of commercial timber as this remains the property of the state under the lease, licence or permit.

3.5 Dealing with improvements

Improvements to be bought by incoming lessee or buyer

If there are improvements, the property of the state or a previous lessee, on land to be leased or bought under the Land Act, the value of the improvements is to be determined as at the day the offer was made.

The value of the improvements is to be assessed on a cost less depreciation basis.

The Land Act may also requires the former owner of improvements on a lease, licence or trust land to be paid for the value of the improvements when a new lease or a deed of grant is issued or if dedicated as a reserve. Refer to section 139 and section 249 of the Land Act.

Where the state is intending to seek payment from an incoming lessee or buyer for the improvements and development work on the land, the relevant date for the valuation is the date of the valuation report. If the date of the valuation report is older than three months, before deciding on the action a review of the valuation is to be sought and obtained before approval of the relevant action.

The value of the improvements is to be assessed on a cost less depreciation basis.

Payment by the state for improvements

If a relevant term lease as defined in section 249 of the Land Act expires or is surrendered absolutely, or a perpetual lease for grazing or agricultural purposes is surrendered, and the state:

1. sets aside any land, that was a part of the lease, as a reserve for a community purpose, or
2. dedicates any land, that was a part of the lease, as a road;

the state must pay, to the person who was the lessee, the value of any lawful improvements on the part of the land set aside or dedicated. Refer to section 249 of the Land Act. The value of the improvements is to be determined as at the day of the expiry or surrender of the lease.

The value of the improvements is to be assessed on a cost less depreciation basis.

3.6 Easements

Easements are to be granted only on determination of suitable consideration. Refer to Policy – Easements (SLM/2013/410).

The consideration for the granting of an easement will be equivalent to the valuation of diminution in value of the land over which the easement is sought. Refer to Procedure – Dealing (including compensation) with Easements (SLM/2013/419).

The relevant date for the valuation is the date of the valuation report.

4 Legislation

Land Act 1994

Land Regulation 2020

Land Valuation Act 2010

5 Related documents

Easements - Operational Policy (SLM/2013/410 = PUX/901/527)

Dealings (including compensation) with Easements - Guideline (SLM/2013/419 = PUX/952/072)

6 Human Rights

The department is committed to respecting, protecting and promoting human rights. Under the *Human Rights Act 2019*, the department has an obligation to act and make decisions in a way that is compatible with human rights and, when making a decision, to give proper consideration to human rights. To the extent an act or decision under this document may engage human rights under the *Human Rights Act 2019*, regard will be had to that Act in undertaking the act or making the decision.

7 Further information

- Contact your nearest business centre(https://www.resources.qld.gov.au/?contact=state_land)
- Refer to <https://www.qld.gov.au/environment/land/state>, or
- Call 13 QGOV (13 74 68).